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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**
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8 CHARLES MANLEY,

9 Petitioner,

10 vs.

11 RENEE BAKER, *et al.*,

12 Respondents.
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Case No. 3:15-cv-00083-LRH-WGC

ORDER

14 This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254
15 by a Nevada state prisoner.

16 Petitioner has filed an application to proceed *in forma pauperis*. (ECF No. 1). The
17 application establishes that the petitioner qualifies for *in forma pauperis* status. Petitioner shall be
18 granted leave to proceed *in forma pauperis*, and shall not be required to pay the filing fee for his
19 habeas corpus petition. The petition will be ordered filed.

20 Petitioner challenges a 2004 criminal conviction in the Eighth Judicial District Court of
21 Clark County, Nevada. The Antiterrorism and Effective Death Penalty Act (AEDPA) imposes a
22 one-year statute of limitations on the filing of federal habeas corpus petitions. 28 U.S.C. §
23 2244(d)(1). According to the attachments to the petition, petitioner's judgment of conviction in the
24 Eighth Judicial District Case No. C204662 was filed on December 26, 2004. Petitioner signed his
25 federal habeas petition and dispatched it for mailing on January 25, 2015. It appears likely that the
26 petition was filed outside the AEDPA one-year limitations period, and may be subject to dismissal
27 on that basis. Petitioner will be granted an opportunity to demonstrate either that he submitted his
28 federal habeas corpus petition in a timely manner, or that he is excused from compliance with the

1 one-year limitations period imposed by the AEDPA. Respondents will be granted an opportunity to
2 file a response to petitioner's proof.

3 **IT IS THEREFORE ORDERED** that petitioner's application to proceed *in forma pauperis*
4 (ECF No. 1) is **GRANTED**.

5 **IT IS FURTHER ORDERED** that the Clerk **SHALL FILE and ELECTRONICALLY**
6 **SERVE** the petition (ECF No. 1-1) upon the respondents.

7 **IT IS FURTHER ORDERED** that petitioner shall have **thirty (30) days** from the date of
8 entry of this order to show cause and file such proof he may have to demonstrate that he submitted
9 his federal habeas corpus petition in a timely manner, or that he is excused from compliance with
10 the one-year limitations period imposed by the AEDPA.

11 **IT IS FURTHER ORDERED** that if petitioner files such proof, respondents shall have
12 **thirty (30) days** to file a response to petitioner's proof, including all portions of the state court
13 record that are relevant to the issue of whether the federal petition is timely.


14 **IT IS FURTHER ORDERED** that any state court record exhibits filed by respondents shall
15 be filed with a separate index of exhibits identifying the exhibits by number or letter. The hard copy
16 of all state court record exhibits shall be forwarded, for this case, to the staff attorneys in the **Reno**
17 Division of the Clerk of Court.

18 **IT IS FURTHER ORDERED** that if petitioner is unable to demonstrate that he submitted
19 his federal habeas corpus petition in a timely manner, or that he is excused from compliance with
20 the one-year limitations period imposed by the AEDPA, the Court will enter an order dismissing the
21 petition.

22 **IT IS FURTHER ORDERED** that petitioner's motion for the appointment of counsel
23 (ECF No. 4) is **DENIED** without prejudice.

24 **IT IS FURTHER ORDERED** that petitioner's motion for leave to conduct discovery (ECF
25 No. 5) is **DENIED**.

26 DATED this 28th day of October, 2015.

27 
28 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE